



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/745,320	12/21/2000	William J. Balloni	15-NM-5334 (70191/251)	2052

7590 04/06/2005

Katherine D. Lee
FOLEY & LARDNER
Firstar Center
777 East Wisconsin Avenue
Milwaukee, WI 53202-5367

EXAMINER

LEZAK, ARRIENNE M

ART UNIT	PAPER NUMBER
----------	--------------

2143

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/745,320

Applicant(s)

BALLONI ET AL.

Examiner

Arrienne M. Lezak

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-76 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-76 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Examiner notes that Claims 1, 17, 19-23, 29, 31-33, 43, 44 & 46 have been amended, Claims 59-76 have been added and no Claims have been cancelled. Claims not explicitly addressed herein are found to be addressed within prior Office Action dated 5 August 2004 as reiterated herein below.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claims 1, 17, 29, 64, 66 & 74, as amended, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, Examiner finds the wording "substantially real time", (pending Claims 1, 17, 29, 64 & 74), and "it may be collaboratively controlled", (pending Claim 66), to be indefinite, requiring correction of the same. For current examination purposes, said portions of the claim language will be ignored, and the claim(s) will be examined as though the indefinite portions were absent from the same.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2143

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Original Claims 1-4, 7-8, 10-11, 17-18, 21, 23-24, 26-27, 46-47 & 52-53, and New Claims 62, 66, 71, 73 are rejected under 35 U.S.C. 102(b) as being anticipated by Wood et al (US. 5,715,823).

5. Regarding claims 1, 4, 7, 8, 11, 17, 21, 23, 24, 27, 46, 47, 52, 62, 66, 71 & 73, Wood discloses a method, apparatus and computer program (hereinafter collectively referred to as a system) for remote control of an imaging system, e.g., ultrasound system, the imaging system associated with an application model located at a first location and the application model being in communication with the imaging system, the method comprising the steps of:

- providing a first user interface at the first location (fig. 4);
- providing a second user interface, i.e., web browser, at a second location, i.e., HTTP server, in response to a request for remote control of the imaging system at the second location (Col.7, line 37-Col. 8, lines 58);
and
- controlling with the application model, e.g., CGI programs, via at least one of the first user interface and the second user interface (Col. 8, lines 40-58).

6. Regarding claims 2 & 18, Wood discloses a second user interface includes generating the second user interface from the application model (Col. 8, lines 40-58).

7. Regarding claims 3 & 53, Wood discloses a second user interface includes replicating at least a part of the first user interface using the application model to the second location (Co1. 8, lines 47-51).

8. Regarding claims 10 & 26, Wood discloses the communications network is selected from a group including an intranet, the Internet, a local area network (LAN), a broadband network, a wireless network and a variety of other networks (Fig. 3).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Original Claims 9, 25; 12-16, 28-30, 32-45, 48-51 & 54-58, Amended Claim 31 and New Claims 59-61, 63-65, 67-70, 72 & 74-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al (US. 5,715,823).

11. Regarding Amended Claim 31 and Original Claims 35, 36, 38, Wood discloses a method, apparatus and computer program (hereinafter collectively referred to as a system) for remote control of an imaging system, e.g., ultrasound system, the imaging system associated with an application model located at a first location and the application model being in communication with the imaging system, the method comprising the steps of:

- providing a first user interface at the first location (fig. 4);

- providing a second user interface, i.e., web browser, at a second location, i.e., HTTP server, in response to a request for remote control of the imaging system at the second location (Col.7, line 37-Co1. 8, lines 58); and
- controlling with the application model, e.g., CGI programs, via at least one of the first user interface and the second user interface (Col. 8, lines 40-58);
- automatically updating the first and the second user interfaces in response to at least one command made to the imaging system by at least one of the first and the second user interfaces or in response to at least one response returned from the imaging system (Col. 8, lines 40-58; Co1. 9, line 49-67; & Col. 10, lines 1- 9). Examiner notes that a continuous or automatic updating functionality would have been obvious in light of the teachings of Wood, which, in addition to an updating functionality, discloses CGI programs capable of executing tasks in response to input arguments and performing system diagnostics.

12. Regarding claims 37 & 38, Wood discloses the communications network is selected from a group including an intranet, the Internet, a local area network (LAN), a broadband network, a wireless network and a variety of other networks (Fig. 3).

13. Regarding Original Claims 5-6, 19-20, 22, 32-34 and New Claims 59, 64, 67 & 74, Wood discloses, (continuous or automatic), updating the first and the second user interfaces in response to at least one command made to the imaging system by at least

Art Unit: 2143

one of the first and the second user interfaces or in response to at least one response returned from the imaging system (Col. 8, lines 40-58; Col. 9, line 49-67; & Col. 10, lines 1- 9). Examiner notes that a continuous or automatic updating functionality would have been obvious in light of the teachings of Wood, which, in addition to an updating functionality, discloses CGI programs capable of executing tasks in response to input arguments and performing system diagnostics.

14. Regarding Original claims 9, 25, 54-57 and New Claims 63 & 72, Wood discloses the invention substantially, as claimed, as described, but is silent to including network communication between application model and second user interface, i.e., separation CGI from second station. However, the court held that would have been obvious for any desirable reason to making separable. (MPEP 2144.04 C).

15. Regarding claims 12-14, 28, 39 and 48-51, Wood discloses the invention substantially, as claimed, as described, but silent to having the second location is the first location, i.e., making integral. However, the court held that making integral without producing unexpected results would have been obvious to one skill in the art that was a matter of engineering choice (IM-PEP 2144.04 B).

16. Regarding Original Claims 15-16, 29-30, 40-44 and New Claims 65 & 75, Wood discloses the invention substantially, as claimed, as described, including a remote control concept, which is applicable to any number of remote control station. Thus including a third location or any number of locations would have been obvious to one of ordinary skill in the art that was a matter of choice.

Art Unit: 2143

17. Regarding claim 45, Wood discloses the invention substantially, but does not explicitly include well-known medical diagnostic device such as MRI or NM in the group for controlling remotely, as claimed. However, modifying the system as taught by Wood, which is capable of controlling general imaging apparatus over network to control any other types of medical diagnostic devices would have obvious to one of ordinary skill in the art at the time of the invention was made that a matter of implementation choice (MPEP 2144.04 C).

18. Regarding claim 58, Wood discloses the invention substantially, but does not explicitly include well-known command, as claimed therein. However, by teaching of system capable of providing remote control via graphic user interface from a terminal across a network, in which remotely commanding is inherent, it would have been obvious to one of ordinary skill in the art at the time of the invention was made that, modifying remote-commanding capabilities, for controlling medical devices to perform specific tasks, regardless of detailing, as taught by Wood, would be a matter of choice (MPEP 2144.04 C).

19. Regarding New Claims 60, 68, 69 & 76, Wood discloses the invention substantially, as claimed, as described, but silent to having application model run on a processor separate from the imaging device. However, modifying the system as taught by Wood, which is capable of controlling general imaging apparatus over network via an application model from any processor location would have obvious to one of ordinary skill in the art at the time of the invention was made that a matter of implementation choice (MPEP 2144.04 C).

Art Unit: 2143

20. Regarding New Claims 61 & 70, Wood discloses the invention substantially, but does not explicitly enumerate wherein the first user interface and second user interface are updated in real-time based on data from the application model, (Col. 9, lines 60-63 & Col. 12, lines 20-23). Examiner notes that Wood specifically teaches both an update functionality as well as a real-time capability, wherein it would have been obvious to update the system in real-time for purposes of accuracy, cohesiveness and consistency when performing remote and local system duties.

Response to Arguments

21. Applicant's arguments filed 5 November 2004, have been fully considered but they are not persuasive. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made.

22. Regarding Applicant's remarks that Claim 1, as amended overcomes the teachings of Wood, Examiner respectfully disagrees, finding the amended claim language to be indefinite, as noted herein above.

23. Regarding Applicant's remarks that Claim 31, as amended overcomes the teachings of Wood, Examiner respectfully disagrees, finding the amended claim language to be obvious, as noted herein above.

24. Examiner respectfully disagrees with Applicant's remarks regarding Claim 45 and sustains original rejection (noting the Claim as recited in the remarks section of the

Art Unit: 2143

amendment is not the claim language of Claim 45). Regarding Claim 46, Examiner notes that Wood teaches all the claim elements, (and specifically refers Applicant to their own Claim 5 claim language).

25. Examiner has addressed Applicant's Amendment, and has further rejected all Amended & Original and New Claims, as noted herein above. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

26. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bunjob Jaroenchonwanit whose telephone number is (571)-272-3913. The examiner can normally be reached on 8:00-17:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (571)-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the electronic Business center (EBC) at 866-217-9197 (toll-free).

Bunjob Jaroenchonwanit
Primary Examiner
Art Unit 2143

/bj
3/22/05


DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100